

United States District Court

For the Northern District of California

E-FILED 12-04-2009

NOT FOR CITATION

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

11 UNITED STATES *ex rel.* DONNA M.
12 McLEAN and THE STATE OF CALIFORNIA
13 *ex rel* DONNA M. McLEAN,

No. C05-01962 HRL

Plaintiffs,

v.

**ORDER GRANTING McLEAN'S EX
PARTE APPLICATION FOR
EXTENSION OF TIME TO
SUBSTITUTE NEW COUNSEL**14
15 THE COUNTY OF SANTA CLARA, THE
16 DEPARTMENT OF CHILDREN AND
17 FAMILY SERVICES OF SANTA CLARA
18 COUNTY, KENNETH BORELLI,
LAWRENCE GALLEGOS, EPIFANIO ("J.R.")
REYNA, TANYA BEYERS, DR. DEE
SCHAFFER, DR. TOMMIJEAN THOMAS,
DR. RICHARD PERILLO and DOES 1-100,

[Docket No. 278]

Defendants.

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21 This court previously permitted conditional withdrawal by relator Donna McLean's
22 third attorney, William Dresser, and granted McLean's request for a stay of these proceedings
23 to permit her time to secure new counsel. (See Docket No. 277, October 9, 2009 Order). On
24 November 25, 2009, a few days before the stay was to automatically expire, relator filed an ex
25 parte application to extend the stay through January 4, 2010. The United States, which declined
26 to intervene in this action, reportedly takes no position on McLean's requested extension.
27 Defendants, however, oppose the motion and request that this case be dismissed as per this
28 court's October 9, 2009 order.

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1 Having considered the moving and responding papers, this court does not find good
2 cause for the requested extension. Nonetheless, in the interests of justice it will give relator one
3 last opportunity to retain new counsel. Accordingly, the December 8, 2009 case management
4 conference is vacated, and this action will be stayed through January 4, 2010 at which time the
5 stay will automatically expire. Assuming McLean has secured new counsel: (a) her new
6 attorney(s) shall promptly enter an appearance and substitute into the matter, (b) the parties
7 shall file a status report on January 5, 2010, and (c) a case management conference will be held
8 on January 12, 2010, 1:30 p.m. to discuss the status of the remaining discovery addressed in this
9 court's September 8, 2009 order and the setting of new dates for dispositive motion hearings,
10 the final pretrial conference and trial. If McLean fails to retain new counsel on or before the
11 expiration of the stay, the court intends to dismiss this action, without prejudice to the
12 government. See United States ex rel Stoner v. Santa Clara County Office of Education, 502
13 F.3d 1116, 1128 (9th Cir. 2007).

14 SO ORDERED.

15 Dated: December 4, 2009

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17 HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE

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United States District Court

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